

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**JOSE SALVADOR AVILA RIVERA,**

Plaintiff,

v.

**MR. D. PAYNE, et al.,**

Defendants.

No. 3:10-cv-00668-PK

OPINION AND ORDER

**MOSMAN, J.,**

On December 14, 2011, Magistrate Judge Papak issued his Findings and Recommendation (“F&R”) [36] in the above-captioned case recommending that I grant defendants’ Motion to Dismiss [18]. Neither party filed objections.

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121

(9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation, and I ADOPT the F&R [36] as my own opinion.

IT IS SO ORDERED.

DATED this 1st day of June, 2012.

/s/ Michael W. Mosman  
MICHAEL W. MOSMAN  
United States District Court